

MARK J. BENNETT 2672  
Attorney General of Hawaii

ROBYN M. KUWABE 3001  
Deputy Attorney General  
Department of Attorney  
General, State of Hawaii  
Labor Division  
425 Queen Street  
Honolulu, Hawaii 96813  
Telephone: 586-1450

'06 FEB -8 A9:29

HAWAII  
LABOR RELATIONS BOARD

Attorneys for Complainant Director  
of Labor and Industrial Relations

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

|                                |   |                                |
|--------------------------------|---|--------------------------------|
| In the Matter of               | ) | CASE NO. OSH 2005-25           |
|                                | ) | (Inspection No. 308489723)     |
| DIRECTOR, DEPARTMENT OF LABOR  | ) |                                |
| AND INDUSTRIAL RELATIONS,      | ) | STIPULATION AND SETTLEMENT     |
|                                | ) | AGREEMENT; EXHIBIT A; APPROVAL |
| Complainant,                   | ) | AND ORDER                      |
|                                | ) |                                |
| vs.                            | ) |                                |
|                                | ) |                                |
| CRESTVIEW COMMUNITY PARK,      | ) |                                |
| DEPARTMENT OF PARKS AND        | ) |                                |
| RECREATION, CITY AND COUNTY OF | ) |                                |
| HONOLULU,                      | ) |                                |
|                                | ) |                                |
| Respondent.                    | ) |                                |

**STIPULATION AND SETTLEMENT AGREEMENT**

Complainant Director, Department of Labor and Industrial Relations ("Director")  
and Respondent Crestview Community Park, Department of Parks and Recreation, City and  
County of Honolulu ("Respondent") having reached a full and complete settlement of the above-  
captioned contested case presently pending before the Hawaii Labor Relations Board ("Board")  
stipulate and agree as follows:

On or about August 4, 2005, the Director, by and through the State of Hawaii's Occupational Safety and Health Division ("HIOSH"), inspected Respondent's workplace located at 94-1220 Lumikula Street, Waipahu, Hawaii 96797.

As a consequence of said inspection, the Director, through HIOSH's Administrator, issued a Citation and Notification of Penalty on October 28, 2005 ("Citation") to Respondent alleging violations of the Hawaii Occupational Safety and Health Standards and assessed an aggregate penalty of \$0.00. *See Exhibit A.*

Respondent timely contested Citation 1, Items 2a and 2b and did not contest Citation 1, Items 1a and 1b.

THEREFORE, to avoid the expense of litigation and to compromise and settle the above-captioned case, the parties, by and through their respective representatives, stipulate and agree as follows:

1. The Board has jurisdiction over this contested case pursuant to section 396-11, Hawaii Revised Statutes ("HRS").
2. At all relevant times, Respondent maintained a workplace at 94-1220 Lumikula Street, Waipahu, Hawaii 96797.
3. At all relevant times, Respondent was an employer, as defined in HRS § 396-3, and employed employees, as defined in HRS § 396-3, and was therefore subject to the requirements of HRS chapter 396, the Hawaii Occupational Safety and Health Laws.
4. Respondent agrees that it has or will abate each violation listed in the Citation in compliance with the abatement requirements under Hawaii Administrative Rule § 12-51-22, and will by February 28, 2006, implement the following department-wide hazard communication program procedures to minimize the potential for future violations of HRS,

chapter 396, Hawaii Occupational Safety and Health Laws:

- a. Respondent will maintain a written hazard communication program along with appropriate material safety data sheets ("MSDS") at every workplace which is manned by employees during the designated work hours;
- b. For workplaces maintained by roving crews, if the roving crew reports to a baseyard which is manned by employees who are available during the workshift of the roving crew and trained in the hazard communication program, the written hazard communication program and appropriate MSDS will be maintained at the baseyard. If the roving crew reports to a baseyard which is not manned by employees during the workshift of the roving crew, the written hazard communication program and appropriate MSDS will be maintained in the vehicle used by the roving crew; and
- c. Respondent shall issue a memorandum to its staff prohibiting the use of personal janitorial cleaning supplies at the workplace. Should an employee have a suggestion for a better cleaning supply, the employee will need to coordinate with Respondent's storeroom to ensure that the appropriate MSDS is obtained before any personal janitorial cleaning supplies are used at the workplace.

Failure to timely implement the above revisions to Respondent's department-wide hazard communication program may result in additional penalties or follow up inspections.

- 5. The violations and corresponding characterizations as stated in Citation 1,

Items 2a and 2b are deleted.. See Exhibit A.

6. The aggregate penalty remains \$0.00.

7. Except for the stipulated amendments described above, the Citation is confirmed in all other respects and upon approval by the Board, this Agreement and the Citation, as amended, shall become a final order of the Director.

8. Respondent shall post a copy of this Agreement and Order in a prominent place at or near the location of the posting of the Citation, and the Agreement and Order shall remain posted for three working days (excluding weekends and State holidays).

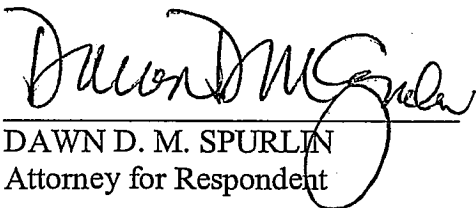
9. Respondent shall continue to comply with HRS chapter 396, the Hawaii Occupational Safety and Health Law, and the related rules.

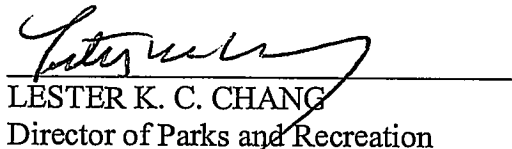
10. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

DATED: Honolulu, Hawaii, February 8, 2006.

APPROVED AS TO FORM:

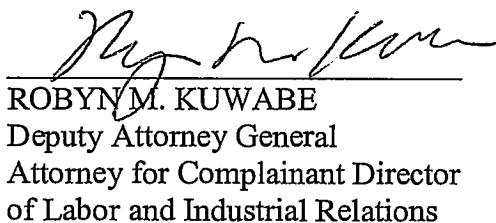
CRESTVIEW COMMUNITY PARK,  
DEPARTMENT OF PARKS AND RECREATION,  
CITY AND COUNTY OF HONOLULU

  
DAWN D. M. SPURLIN  
Attorney for Respondent

  
LESTER K. C. CHANG  
Director of Parks and Recreation

APPROVED AS TO FORM:

DIRECTOR OF LABOR AND  
INDUSTRIAL RELATIONS

  
ROBYN M. KUWABE  
Deputy Attorney General  
Attorney for Complainant Director  
of Labor and Industrial Relations

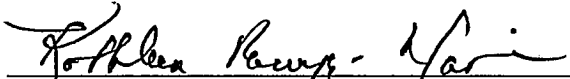
  
NELSON B. BEFITEL

APPROVED AND SO ORDERED BY  
HAWAII LABOR RELATIONS BOARD:

  
BRIAN K. NAKAMURA, Chair

ORDER NO. 179

FEBRUARY 8, 2006

  
KATHLEEN RACUYA-MARKRICH, Member

  
EMORY J. SPRINGER, Member

---

*Director, Department of Labor and Industrial Relations v. Crestview Community Park, Department of Parks and Recreation, City and County of Honolulu, Case No. OSH 2005-25, Inspection No. 308489723 - Stipulation and Settlement Agreement*

State of Hawaii  
Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division  
830 PUNCHBOWL STREET, ROOM 425  
Honolulu, HI 96813  
Phone: (808) 586-9090 FAX: (808) 586-9104



Certified Number: 7004 2510 0003 2979 4537

## Citation and Notification of Penalty

To:  
C&C - Crestview Community Park, DPR  
and its successors  
C/O Leeward District Office  
Attn: Dexter Lu  
94-230 Paiwa St  
Waipahu, HI 96797

Inspection Number: 308489723 (Alan Yamamoto)

Inspection Date(s): 08/04/2005 - 08/04/2005

Issuance Date: 10/28/2005

OSHCO ID: T5734

Optional Report No.: 3305

Inspection Type: Planned

Scope of Inspection: Comprehensive Inspection

Inspection Site:  
94-1220 Lumikula St  
Waipahu, HI 96797

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health Law. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the State of Hawaii Occupational Safety and Health Division (HIOSH) at the address shown above. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as provided for in the Law or, if contested, unless this Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

EXHIBIT A

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4, Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Employers' Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Administrator in writing that you intend to contest the citation(s) and/or penalty(ies) within 20 calendar days after receipt, the citation(s) and the penalty(ies) will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency. Once a letter of contest is received, it becomes the jurisdiction of the HLRB.

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number on the remittance.

HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the citation. For Willful and Repeat violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as Serious and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by Section 12-55-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown above.

**Employer Rights and Responsibilities** - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Employees' Right to Contest** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown above and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - you should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.





**State of Hawaii**  
**Department of Labor and Industrial Relations**  
**HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION**

**NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 10/28/2005. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 425, Honolulu, HI 96813 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 308489723  
Inspection Dates: 08/04/2005 - 08/04/2005



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 10/28/2005

## Citation and Notification of Penalty

Company Name: C&C - Crestview Community Park, DPR  
Inspection Site: 94-1220 Lumikula St, Waipahu, HI 96797

The alleged violations below (1a & 1b) have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

### Citation 1 Item 1a Type of Violation: **Other**

29 CFR 1910.304(f)(3)(ii) [Refer to chapter 12-89.1, HAR] was violated because:

The grounding conductor (ground conductor) was connected to the grounded conductor (neutral conductor) in two outlets, creating a "false ground/bootleg." This condition is an electrocution hazard.

29 CFR 1910.304(f)(3)(ii) states "For an ungrounded service-supplied system, the equipment grounding conductor shall be connected to the grounding electrode conductor at the service equipment. For an ungrounded separately divided system, the equipment grounding conductor shall be connected to the grounding electrode conductor at, or ahead of, the system disconnecting means or overcurrent devices."

Location: a) Recreation Room, outlet below kitchen window,  
b) Meeting Room, outlet nearest ceramics room door

Date By Which Violation Must be Abated:  
Penalty:

11/07/2005  
\$00.00

### Citation 1 Item 1b Type of Violation: **Other**

29 CFR 1910.304(f)(4) [Refer to chapter 12-89.1, HAR] was violated because:

A Whirlpool Freezer (12.8 cubic foot, Model ERV13S) was not grounded, thus exposing employees to an electrocution hazard.

29 CFR 1910.304(f)(4) states "Grounding path. The path to ground from circuits, equipment, and enclosures shall be permanent and continuous."

Location: Recreation Room

Date By Which Violation Must be Abated:  
Penalty:

11/07/2005  
\$00.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 308489723  
Inspection Dates: 08/04/2005 - 08/04/2005



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 10/28/2005

## Citation and Notification of Penalty

Company Name: C&C - Crestview Community Park, DPR  
Inspection Site: 94-1220 Lumikula St, Waipahu, HI 96797

The alleged violations below (2a & 2b) have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

### Citation 1 Item 2a Type of Violation: **Other**

29 CFR 1910.1200(e)(1) [Refer to chapter 12-203.1, HAR] was violated because:

A written hazard communication program for janitorial cleaning supplies (Lemon Green, etc) was not developed and maintained at Crestview Community Park.

29 CFR 1910.1200(e)(1) states "Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following: (i) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and, (ii) The methods the employer will use to inform employees of the hazards of non-routine tasks (for examples, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas."

Location: Establishment

Date By Which Violation Must be Abated:  
Penalty:

11/07/2005  
\$00.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

# STATE OF HAWAII

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 308489723  
Inspection Dates: 08/04/2005 - 08/04/2005



830 Punchbowl Street, Room 425  
Honolulu, HI 96813

Issuance Date: 10/28/2005

## Citation and Notification of Penalty

Company Name: C&C - Crestview Community Park, DPR  
Inspection Site: 94-1220 Lumikula St, Waipahu, HI 96797

Citation 1 Item 2b Type of Violation: Other

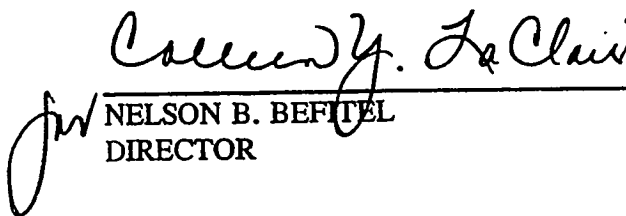
29 CFR 1910.1200(g)(8) [Refer to chapter 12-203.1, HAR] was violated because:

Material Safety Data Sheets (MSDS) for janitorial cleaning supplies (Lemon Green, etc) were not readily available to employees nor maintained at Crestview Community Park.

29 CFR 1910.1200(g)(8) states "The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as not barriers to immediate employee access in each workplace are created by such options.)"

Location: Establishment

Date By Which Violation Must be Abated: 11/07/2005  
Penalty: \$00.00

  
NELSON B. BEFITEL  
DIRECTOR

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii  
Department of Labor and Industrial Relations  
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION  
830 PUNCHBOWL STREET, ROOM 425  
Honolulu, HI 96813

## SUMMARY OF PENALTIES

Company Name: C&C - Crestview Community Park, DPR  
Inspection Site: 94-1220 Lumikula St  
Waipahu, HI 96797  
Issuance Date: 10/28/2005

Summary of Penalties for Inspection Number 308489723

Citation 01, Other = \$0.00

TOTAL PENALTIES = \$0.00

Make check or money order payable to the "Director of Budget and Finance." Please indicate the inspection number and dba, if company name is different, on the remittance. A fee of \$15.00 will be charged for any returned checks.

If receipt is desired, please indicate with payment; otherwise, your cancelled check will be your receipt.

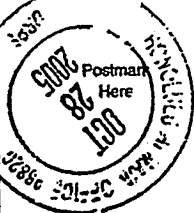
U.S. Postal Service  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Safety Postage \$ 83  
Certified Fee 2.30  
Return Receipt Fee (Endorsement Required) 1.75  
Restricted Delivery Fee (Endorsement Required)  
Total Postage & Fees \$ 4.88

308489723



Sent To  
C&C-Crestview Comm. Park, DPR  
Street, Apt. No.,  
or PO Box No. c/o Leeward District Office  
94-230 Palwa Street  
City, State, ZIP+4  
Waipahu, Hawaii 96797

PS Form 3800, June 2002

See Reverse for Instructions

PS Form 3811, August 2001

Domestic Return Receipt

### THIS SECTION ON DELIVERY

Signature of Agent or Addressee  
Agent ☐ Addressee ☐  
(Printed Name) C. Date of Delivery  
N. TAKAMOTO 10/31/05  
Address different from item 1? ☐ Yes  
or delivery address below: ☐ No

Mail ☐ Express Mail  
id ☐ Return Receipt for Merchandise  
Mail ☐ C.O.D.  
Delivery? (Extra Fee) ☐ Yes

0003 2979 4537

102595-02-M-1540